

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

**WELLS FARGO & COMPANY,
90 South 7th Street
MAC: N9305-164
Minneapolis, MN 55479**

Plaintiff,

V.

CIVIL NO. _____

**INTERNAL REVENUE SERVICE,
1111 Constitution Avenue, NW
Washington, DC 20224**

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), as amended, to order the production of agency records, consisting of all materials subject to disclosure, including but not limited to any and all background, administrative, and legal materials relating to Internal Revenue Service (“IRS”) Notice 96-23, Revenue Procedure 94-29, Revenue Procedure 97-39, and Proposed Treasury Regulations under Section 475 of the Internal Revenue Code.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B) because this is an action to enforce the FOIA.

3. Plaintiff, Wells Fargo & Company, is a corporation with its Corporate Tax Department located at 90 South 7th Street, Minneapolis, MN 55479.

4. Defendant, the IRS, is an agency of the United States government, and has possession and control of the records requested by plaintiff.

5. Over 11 months ago, on July 5, 2005, Miller & Chevalier Chartered ("M&C"), a law firm engaged by plaintiff to request the agency records, sent defendant a FOIA request (a copy of which is attached hereto as Exhibit A) for all materials subject to disclosure, including but not limited to any and all background, administrative, and legal materials relating to IRS Notice 96-23, Revenue Procedure 94-29, Revenue Procedure 97-39, and Proposed Treasury Regulations under Section 475 of the Internal Revenue Code.

6. On July 19, 2005, defendant requested a voluntary 60-day extension of time to respond to plaintiff's FOIA request. Approximately 90 days later, on October 14, 2005, defendant again requested an extension of time until November 29, 2005 to respond to plaintiff's request. On December 7, 2005, defendant again requested an extension of time until February 21, 2006 to respond to plaintiff's request. (Copies of defendant's requests for extensions of time are attached hereto as Exhibit B.) No additional requests for an extension of time have been made by defendant since December 7, 2005.

7. M&C has contacted defendant on plaintiff's behalf numerous times – both before and after February 21, 2006 – regarding the status of plaintiff's FOIA request. In all such instances, defendant has been unable or unwilling to provide plaintiff with any indication of when a response to plaintiff's FOIA request will be forthcoming, and has further refused to produce responsive materials it claims to have identified and reviewed, on a piecemeal basis.

8. As of the date of this Complaint, defendant has not provided the statutorily and regulatory required responses to the requests, nor has it disclosed any of the requested materials. Moreover, defendant has failed to respond to plaintiff's FOIA requests within the statutorily-provided period and has never issued a determination with regard to this request.

9. Over 20 days (excluding Saturdays, Sundays, and legal holidays) have passed since plaintiff's FOIA request was filed on July 5, 2005. Further, over 20 days (excluding Saturdays, Sundays, and legal holidays) have passed since February 21, 2006, the last extended response date requested by defendant.

10. Plaintiff has exhausted its administrative remedies with respect to this matter.

11. Plaintiff has a statutory right, pursuant to 5 U.S.C. § 552(a)(3), to the records it seeks, and there is no legal basis for defendant's failure to respond to plaintiff's request and to disclose the requested materials, or to claim statutory exemptions from disclosure for any requested materials that are withheld.

WHEREFORE, plaintiff prays that this Court:

- (1) Declare that defendant's failure to disclose the records requested by plaintiff is unlawful;
- (2) Order that defendant immediately provide the requested records to plaintiff;
- (3) Award plaintiff its costs and reasonable attorney's fees in this action; and
- (4) Grant such other and further relief as the Court may deem just and proper.

Dated this 20th day of June, 2006.

Respectfully submitted,



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